IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 4346 of 2005

Between:

1 Mrs. Zaheda Begum W/o. Mohd. Rashed Hussain
R/o. 11-2-960, Bazarghat, Khairatabad, Hyderabad.
2 Mohd. Rashed Hussain S/o. Late Mohd. Amjad Hussain,
Presently working at Dubai R/o. 11-2-960, Bazarghat, Khairatabad,
Hyderabad.

... PETITIONERS

AND

1 The Government of India, Rep. by its Secretary,
Ministry of External Affairs, Sansad Bhavan, New Delhi.
2 The Regional Passport Office, Rep. by its Regional Passport Officer,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the respondents in not passing orders on 2nd Petitioner's representations dt. 23-12-2004, 05-03-98 as highly illegal, arbitrary and to forthwith direct the 2nd respondent herein to consider 2nd Petitioner's representations dt. 23-12-2004, 05-03-98 and to pass appropriate orders correcting the 2nd petitioner's date of birth as
26-01-1980 instead of 15-08-1975, in 2nd petitioner's passport No. A3963523.

Counsel for the Petitioner: MRS.S.NANDA

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court at the stage of admission made the following :

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O R D E R:

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Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government appearing for the respondents.

It is the case of the petitioners that the actual date of birth of the second petitioner is 26.01.1980, but in the passport issued to him by the second respondent-Passport Authority on 21.10.1997, his date of birth was wrongly mentioned as 15.08.1975, and that though the second petitioner made representations on 05.03.1998 and 23.12.2004 to the second respondent to alter his date of birth in the Passport and issue fresh passport, the second respondent refused to consider his representations on the ground that he has no power to make correction of date of birth in the passport and directed the petitioners to bring an order from the Court regarding correction of his date of birth. Aggrieved by the said action respondents, this writ petition is filed.

It is required to be noticed that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect:

> " (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
>
> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.
>
> (c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate

issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

As on today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, the respondents ought to have considered the representations of the second petitioner for fresh passport in the light of the above instructions in Circular dated 18-04-2001.

Accordingly, the Writ Petition is disposed of with a direction to the respondents to consider the representations of the second petitioner dated 05.03.1998 and 23.12.2004 for issuance of fresh passport with correct date of birth and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioners may file in support of their case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

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07.03.2005

Note : Furnish C.C. in one week.

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To

1 The Secretary, Government of India,
Ministry of External Affairs, Sansad Bhavan, New Delhi.

2 The Regional Passport Officer, Regional Passport Office,
Hyderabad.

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